

MDR Tracking Number: M5-05-0895-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-16-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The Celebrex, Amitriptyline, Hydrocodone/Apap, Diazepam, Lexapro, Gabitril and Carisoprodol from 12-30-03 through 2-12-04 were **found** to be medically necessary. The back support **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 1-28-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The prescription Diazepam on 11-20-03 was denied by the carrier as "N" – "we are unable to review this bill without itemization of dates,

procedures and charges.” Requestor did not submit relevant documentation to support this service per 133.307(g)(3)(B).

**Recommend no reimbursement.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$878.56 from 12-30-03 through 2-12-04 as outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.
- in accordance with TWCC reimbursement methodologies for pharmaceutical services for dates of service after August 1, 2003 per Commission Rule 134.503 (a);

This Decision and Order is hereby issued this 17<sup>th</sup> day of March 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO decision

**MEDICAL REVIEW OF TEXAS**

[IRO #5259]

**3402 Vanshire Drive**

**Austin, Texas 78738**

**Phone: 512-402-1400**

**FAX: 512-402-1012**

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

**REVISED 3/15/05**

|                                   |                      |
|-----------------------------------|----------------------|
| TWCC Case Number:                 |                      |
| MDR Tracking Number:              | M5-05-0895-01        |
| Name of Patient:                  |                      |
| Name of URA/Payer:                | Highpoint Pharmacy   |
| Name of Provider:                 | Highpoint Pharmacy   |
| (ER, Hospital, or Other Facility) |                      |
| Name of Physician:                | Jacob Rosenstein, MD |
| (Treating or Requesting)          |                      |

January 26, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in family practice. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

### CLINICAL HISTORY

A plethora of records were submitted for review:

1. Various TWCC forms;
2. Medical records from Dr. Rosenstein, MD
3. Medical records from Dr. Witt, DC;
4. Multiple radiographic reports;
5. Operative reports;
6. Attorney letter from Robert Graves dated 1/18/05;
7. Case review by Dr. Erwin dated 11/10/03;
8. Physical therapy notes;
9. Dr. Crane's medical records review dated 2/5/01;
10. Therapy notes from Richard Slaughter;
11. IME per Dr. Singleton dated 8/29/00;
12. Impairment rating by Dr. Chavda dated 5/8/03;
13. Report of Medical Evaluation by Dr. Genender dated 5/5/04; and
14. Various records for Emergency Room visits.

In summary, \_\_\_\_ suffered a work related back injury on \_\_\_\_\_. She had an extensive course of evaluations and treatments including medications, chiropractic care, physical therapy, facet injections, TENS unit, epidural injections, a chronic pain program with psychotherapy, surgery on 5/27/02 and another surgery on 10/15/04. Multiple medications and a back support were denied for a period between 12/03 through 2/04.

### REQUESTED SERVICE(S)

Back support, Celebrex, Amitriptyline, Hydrocodone/APAP, Diazepam, Lexapro, Gabitril, and Carisoprodol between 12/30/03 and 2/12/04.

### DECISION

Reverse decision and approve medications.

Uphold decision to deny back support.

### RATIONALE/BASIS FOR DECISION

This case is complicated and extraordinary involving a chronic pain patient. Unfortunately, the chance for this patient improving and requiring fewer medications is poor. Concerning the time period in question, the objective was appropriately to comfort, for pain control, and attempt to maximize function with a permanent impairment. Celebrex is a Cox-2 inhibitor that is safe and effective for chronic pain.

Amitriptyline is a tricyclic antidepressant used to assist in pain control, improve sleep patterns, and to treat depression (usually at higher doses). It is safe and effective for this patient. Lexapro is medically necessary to treat her depression and anxiety that has resulted from her injury. Gabitril is an antiseizure medication that is often used for chronic pain control. Hydrocodone, a narcotic pain medication, and diazepam, a benzodiazepine used as a muscle relaxant, are controlled substances not usually used on a long term basis. However, in unique situations such as this patient, both medications appear medically necessary and prescribing physician is following the standard of care when prescribing controlled substances for a chronic pain patient. This view point is supported by generally accepted medical literature as well as National Guideline for Clearinghouse guidelines for oral opioids for injured workers with chronic, non-cancer, pain.

On the other hand, no recognized guidelines or literature support the use of a back support in a post surgical patient with chronic pain. In fact, most peer review literature shows an increase in residual back pain when a back support or brace is used for long standing back pain.

Therefore, the medications are approved and the purchase of the back support is denied as not medically necessary.